

ESTTA Tracking number: **ESTTA556298**

Filing date: **08/27/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cardillo, Inc.
Granted to Date of previous extension	08/28/2013
Address	718 Broadway Everett, MA 02149 UNITED STATES
Attorney information	Cheryl Clarkin, Esq. Barlow, Josephs & Holmes 101 Dyer Street, 5th Floor Providence, RI 02903 UNITED STATES cac@barjos.com Phone:401-273-4446

Applicant Information

Application No	85676823	Publication date	04/30/2013
Opposition Filing Date	08/27/2013	Opposition Period Ends	08/28/2013
Applicant	Kevco Intellectual Properties LLC 14513 S. Centerpoint Way Suite 200 Bluffdale, UT 84065 UNITED STATES		

Goods/Services Affected by Opposition

Class 044. First Use: 2011/10/01 First Use In Commerce: 2011/10/01 All goods and services in the class are opposed, namely: Providing a website featuring information, news and commentary in the fields of nutrition, health, wellness and weight management; providing information, news and commentary in the fields of nutrition, health, wellness and weight management

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3750229	Application Date	06/19/2007
Registration Date	02/16/2010	Foreign Priority Date	NONE
Word Mark	BADA\$\$SUPPLEMENTS.COM		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2006/11/00 First Use In Commerce: 2006/11/00 On-line retail store services featuring a wide variety of vitamins, supplements, nutrition products, and sports nutrition products

Related Proceedings	Opposition No. 91209948
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Attachments	Notice of Opposition BADDASS NUTRITION.pdf(198994 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/cac/
Name	Cheryl Clarkin, Esq.
Date	08/27/2013

Applicant: Kevco Intellectual Properties LLC
Serial No.: 85/676823
Filing Date: July 13, 2012
Mark: BADDASS NUTRITION
Published: April 30, 2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

_____)	
Cardillo, Inc.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Kevco Intellectual Properties LLC,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

This Notice of Opposition relates to the application of Kevco Intellectual Properties LLC ("Kevco"), of Bluffdale, Utah, in International Class 44, shown in Application Serial No. 85/676823, filed on July 13, 2012, and published in the Official Gazette on April 30, 2012.

Cardillo, Inc. ("Cardillo"), organized and existing under the laws of the state of Massachusetts, having a place of business at 718 Broadway, Everett, Massachusetts 02149, believes that it will be damaged by registration of BADDASS NUTRITION and hereby opposes same.

The grounds for opposition are as follows:

1. Cardillo is a company duly organized under the laws of the state of Massachusetts, having a place of business at 718 Broadway, Everett, Massachusetts 02149.

2. Cardillo has made extensive and exclusive use of the trademark BADASSSUPPLEMENTS.COM at common law at least as early as November 2006 in connection with online retail store services featuring a wide variety of vitamins, supplements, nutrition products, and sports nutrition products. Cardillo is also the owner of U.S. Trademark Registration No. 3,750,229 issued

on February 16, 2010 for the mark BADA\$\$SUPPLEMENTS.COM for on-line retail store services featuring a wide variety of vitamins, supplements, nutrition products, and sports nutrition products. A current printout of information from the electronic database records of the USPTO showing the current status and title of the registration accompanies this Notice of Opposition.

3. Notwithstanding Cardillo's ownership of the registration listed in Paragraph 2 and use of the mark at least as early as November 2006, Kevco filed an application on July 13, 2012 (Trademark Application Serial No. 85/676823) to register the mark BADDASS NUTRITION for "providing a website featuring information, news and commentary in the fields of nutrition, health, wellness and weight management; providing information, news and commentary in the fields of nutrition, health, wellness and weight management

4. The Kevco mark BADDASS NUTRITION is confusingly similar to Cardillo's marks listed in Paragraph 2.

5. Cardillo's rights as described in Paragraph 2 are prior to any rights Kevco may have in the mark BADDASS NUTRITION.

6. Potential purchasers of Kevco's services are likely to believe that such services originate with, or are authorized or approved by, Cardillo, when, in fact, they are not.

7. Confusion between the Kevco mark and the Cardillo mark is likely, since the services are highly related and travel in the same channels of trade to the same consumers.

8. If Kevco is granted the registration on the application herein opposed, it would thereby obtain a prima facie exclusive right to the use of the mark BADDASS NUTRITION, which would be a source of damage and injury to Cardillo.

WHEREFORE, Cardillo believes it will be damaged by the application for registration and prays that this Opposition be sustained in favor of Cardillo.

Respectfully submitted

By: /Cheryl A. Clarkin/
BARLOW, JOSEPHS & HOLMES, LTD.
101 Dyer Street, 5th Floor
Providence, Rhode Island 02903
Tel.: 401-273-4446

Attorney for Opposer
Cardillo, Inc.

August 27, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION was served on counsel for Applicant, this 27th day of August, 2013 by sending same via First Class Mail, postage prepaid, to:

Richard Hill, Esq.
Durham Jones & Pinegar
4844 N 300 W, Suite 300
Provo, UT 84604-5670

/Cheryl A. Clarkin/
Cheryl A. Clarkin



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BADA\$\$SUPPLEMENTS.COM

Word Mark	BADA\$\$SUPPLEMENTS.COM
Goods and Services	IC 035. US 100 101 102. G & S: On-line retail store services featuring a wide variety of vitamins, supplements, nutrition products, and sports nutrition products. FIRST USE: 20061100. FIRST USE IN COMMERCE: 20061100
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Trademark Search Facility Classification Code	CURRENCY Includes Dollar, Cent, and Pound marks NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks
Serial Number	77210129
Filing Date	June 19, 2007
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	August 19, 2008
Registration Number	3750229
Registration Date	February 16, 2010
Owner	(REGISTRANT) Cardillo, Inc. CORPORATION MASSACHUSETTS 718 Broadway Everett MASSACHUSETTS 02149

**Attorney of
Record** Susan Neuberger Weller
Type of Mark SERVICE MARK
Register PRINCIPAL
**Live/Dead
Indicator** LIVE

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